

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PETER LABRECK,

Plaintiff,

v.

SHERIFF STEPHENSON, CAPTAIN
HARNOIS, and NURSE JANE DOE,

Defendants.

Case No. 14-cv-12025

Honorable Laurie J. Michelson

Magistrate Judge Paul J. Komives

**ORDER ADOPTING REPORT AND RECOMMENDATION [23]
AND DISMISSING THE CASE WITHOUT PREJUDICE**

Before the Court is Magistrate Judge Komives's Report and Recommendation Regarding Defendants' Motion to Dismiss. (Dkt. 23, R&R.) Magistrate Judge Komives recommends dismissing the case without prejudice for failure to prosecute. The Court agrees with this recommendation.

Pro se plaintiff Peter Labreck filed this civil rights action on May 20, 2014. (Dkt. 1.) The named defendants, Sheriff Stephenson and Captain Harnois, filed a Motion to Dismiss on September 15, 2014, arguing that Plaintiff lacked standing as to all claims and that he could not state a claim against Sheriff Stephenson. (*See* Dkt. 19). Magistrate Judge Komives (to whom this Court had referred all pretrial proceedings) ordered Plaintiff to respond by October 17, 2014. (Dkt. 21.) No response was filed.

Magistrate Judge Komives also ordered Plaintiff to provide further means to identify defendant Jane Doe Jail Nurse by October 7, 2014. (Dkt. 20.) And, because it appeared that Plaintiff was incarcerated at the Michigan Department of Corrections' Muskegon Correctional Facility (MCF) but Plaintiff's address of record with the Court was MDOC's Macomb

Correctional Facility (MRF), the Magistrate Judge ordered Plaintiff to file a change of address notice. (*Id.*) The orders were sent to both MCF and MRF. (*See* Sep. 17, 2014 Docket Entries.) One of the orders sent to MCF was returned as undeliverable, but those sent to MRF were not returned. (*See* Dkt. 22.) No response to these orders was filed.

On November 25, 2014, Magistrate Judge Komives filed his report and recommendation to dismiss the case without prejudice. (Dkt. 23.) At the conclusion of his report, the Magistrate Judge notified the parties that they were required to file any objections within 14 days of service, as provided in Federal Rule of Civil Procedure 72(b)(2) and Local Rule 72.1(d), and that “[f]ailure to file specific objections constitutes a waiver of any further right of appeal.” (R&R at 6.) No objections were filed.

It is Plaintiff’s responsibility to apprise the Court of any change of address, *see* E.D. Mich. LR 11.2, and the Court issued a notice to all parties of this responsibility on June 2, 2014. (Dkt. 5.) Plaintiff has not filed any notice of change of address. In fact, Plaintiff has not filed anything in this case since July 22, 2014, nearly five months ago. (*See* Dkt. 11.)

Federal Rule of Civil Procedure 41 authorizes involuntary dismissal for plaintiff’s failure to prosecute his case. Fed. R. Civ. P. 41(b); *see Schafer v. City of Defiance Police Dep’t*, 529 F.3d 731, 736 (6th Cir.2008) (“Rule 41(b) of the Federal Rules of Civil Procedure confers on district courts the authority to dismiss an action for failure of a plaintiff to prosecute the claim or to comply with the Rules or any order of the court.”). This Court’s local rules likewise provide that when “the parties have taken no action for a reasonable time, the court may, on its own motion after reasonable notice or an application of a party, enter an order dismissing or remanding the case unless good cause is shown.” E.D. Mich. L.R. 41.2. The Court agrees with Magistrate Judge Komives’ assessment that dismissal is appropriate in this case.

Having reviewed the Report and Recommendation, and there being no timely objections, the Court **ADOPTS** the Report and Recommendation as the findings and conclusions of this Court. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985). It follows that the Court hereby **DISMISSES THE COMPLAINT WITHOUT PREJUDICE**.

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

Dated: December 18, 2014

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served on the attorneys and/or parties of record by electronic means or U.S. Mail on December 18, 2014.

s/Jane Johnson
Case Manager to
Honorable Laurie J. Michelson